CHAPTER X

QUESTIONS AND ANSWERS

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HOME PROGRAM QUESTIONS & ANSWERS

CONTRACT	
Q	Can an existing rental owner sell a HOME-funded rental housing development?
A	*Yes, the new owner(s) shall fulfill all duties and responsibilities with respect to the operation of the project according to the terms and conditions of the Regulatory Agreement for the affordability period, as specified in 24 CFR 92.252(e).*

FISCAL	
Q	Is an adjustable rate ok for a First-Time Home Buyer program?
A	*No, a fixed rate is required.*
Q	We funded preliminary incidental costs, i.e., termite, appraisal, title reports were incurred, but the rehab loan never came to fruition. Can we draw down for these incidental costs?
A	*No, all draw downs must be for a specific "project" (property) set up in the federal database, and the costs must be for that property.*
Q	What can I do to comply with the 15-day clock requirement?
A	*Develop a process to deposit & spend as soon as the check is received. It is the responsibility of the contractor to ensure that funds are paid out of their local account within 15 days of the wire date listed on remittance advice that accompanies the warrant.*
Q	Can we designate our administrative subcontractor as the payee to remain within the 15-day clock time?
A	*HOME Regulations require State Recipients and CHDOs to disburse their HOME funds within 15 days from the wire date. The funds are then mailed from the State Treasury Office directly to the SR or CHDO who must, in turn, disburse to their administrative sub-contractor for disbursement to the end recipient. This process can delay the disbursement of the funds to the end recipient beyond the 15 days required by HOME regulations. Therefore, the State allows disbursements to be mailed directly from the State Treasury to a SR's or CHDO's administrative subcontractor as long as certain criteria are met. Please contact your HOME representative for details.*

FIRST TIME HOME BUYER PROGRAM	
Q	A local businessman is willing to provide a 30-year fixed interest rate loan, open escrow and work with the title company. Are private individuals allowed to act as private lenders in conjunction with the FTHB program?
A	*No, we require that every borrower have a primary loan from a lender who is in the business of providing residential real estate loans. This ensures standard underwriting procedures and standard loan types.*

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	PROGRAM INCOME
Q	We've accumulated program income. How will this affect us?
A	*At least 90% of program income must be expended for other eligible HOME expenses before additional HOME funds may be drawn down. Unspent program income may cause you to miss one or more expenditure milestones.*
Q	What happens if a milestone is missed?
A	*State Recipients must give careful attention to program design and management to ensure that the requirement to expend both program income and the HOME award is met within regulatory milestones. If one expenditure milestone is missed, there is no consequence. If two consecutive milestones are missed, the contractor loses all performance points on the next application for funds. If any three milestones are missed, the contractor will be "held out" in the next funding cycle, i.e., not allowed to apply for funds, and will lose all performance points the next time a funding application is submitted.*
Q	What documentation is required when program income is accumulated?
A	*1) Submit a revised Funding Source Detail form when program income is spent on a project in place of new HOME funds.* *2) State Recipients are required to report program income balances and expenditures as part of their annual performance report.*

	LIVING TRUST
Q	We have a client who received an owner occupied rehab loan partially funded with HOME funds. The client is elderly and would like to transfer her property into a living trust. The loan has a five year term and can be extended if she is still low income and residing in the house. Can the client transfer title to a living trust and keep the HOME loan?
A	*Your borrower is free to transfer her property into a living trust so long as she is the beneficiary of the trust and she continues to occupy the property. This transfer should be subject to the following additional <u>condition</u>:* *1. the borrower will notify you in a manner and method of your choosing upon the occurrence of any of the following <u>events</u>:* * a. the trust is amended or revoked; or* * b. the borrower's beneficial interest is transferred; or* * c. legal ownership in the property is transferred; or* * d. the borrower no longer occupies the property as her principal place of residence.*

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	EQUAL OPPORTUNITY
Q	Is it necessary to gather income, race, age, ethnicity, disability, and gender data on all tenants applying for a multi-family project?
A	*Yes, all HOME contractors are required to keep records of race, ethnicity, gender, disability, age of target area residents, all applicants, and those selected. This data must be requested, but cannot be required.*
	Application forms filled out by prospective homebuyers and tenants should include pertinent questions to elicit this data.
Q	Do you have any practical suggestions for getting Section 3 or ethnicity data from contractors? Should the SR/CHDO provide income limits to the contractor so they know what "lower-income" means?
A	*It would be helpful if the SR/CHDO provided contractors with forms to make it easier for contractors to keep track of:*
	• *the new hires;*
	• *workforce breakdown and subcontractors needed for the HOME project; and*
	• *certification forms to be filled out by prospective new employees.*
	The SR/CHDO should also provide the county income limits for lower-income households.
Q	Where is the requirement that State Recipients, CHDOs and rental housing owners must keep records of the age of target area residents, all applicants and those selected?
A	*The requirement is in 24 CFR Part 146, which prohibits discrimination on the basis of age in federally funded housing, and requires documentation that there was no discrimination. To provide this documentation, records must be kept.*

	PROCUREMENT
Q	If a State Recipient selected the developer prior to submitting the HOME application, may the developer hire its own contractor (i.e., a contractor who is a normal member of the development team or even co-owned by the developer or a subsidiary or related subsidiary), instead of having to go through a competitive bidding process?
A	*Yes, if a State Recipient selected a developer prior to submitting the HOME application, the developer may hire its own contractor without going through a competitive process.*
Q	May a negotiated bid process be used in lieu of a competitive bidding process, for selection of a contractor for a new construction or rehabilitation project?
A	*No. While this may be allowed for other HUD programs, there are specific requirements applicable to the HOME program requiring competitive bidding for these types of projects.*
Q	What are the two website addresses I'll need to check on proposed contractors?
A	*State Recipients and CHDOs should now check whether the proposed contractor is on the HUD Debarred List, titled the "List of Parties Excluded from Federal Procurement and Non-procurement Programs." The website address is: http://www.arnet.gov/epls/*
	Additionally, you must check whether the proposed contractor is an active State licensed contractor. This may be checked at: http://www2.cslb.ca.gov
	Copies of printouts from these websites should be:
	► obtained before execution of any construction contract; and
	►forwarded with the set up forms submitted to the Department.

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CHAPTER X

QUESTIONS AND ANSWERS

PROJECT SET-UP REPORTS

The following are commonly asked questions regarding the use of the Federal Integrated Disbursement and Information System (IDIS). Close attention to this information should make completing the forms easier. Contact your State HOME Program Representative if you have any additional IDIS related questions.

1.   **QUESTION:** On the Homeownership Assistance/Rental Housing Project Set-Up Report (Form #40094), Part A, Box 9 asks if the project is assisted by a CHDO loan. What does this mean?

   ANSWER: If the project is assisted by funds reserved for Community Housing Development Organizations (CHDOs), **and** the funds are being used to provide either seed-money (predevelopment) loan or technical assistance and site control loan to this particular project, check "yes", all other CHDO projects should check "no". If unsure, please contact your HOME Program Representative for clarification.

2.   **QUESTION:** How do I set up a project that has more than one address? For example, I have a project that included three single-family homes, and each one has a different address.

   ANSWER: Generally speaking, each address would be a separate project set up, but if a rental rehabilitation project involves several addresses owned by one individual or entity - then one project set up form could be utilized. However, for each address, a separate Part C. Household Characteristics form must be filled out. In the example of one project having three single-family homes, one project set up form and three household characteristics forms would need to be completed.

3.   **QUESTION:** If additional tenants are being provided assistance, can they be added to the original Tenant-Based Rental Assistance (TBRA) Project Set-Up Form?

   ANSWER: If the new tenants' term of the assistance ending date differs from that of the tenants listed on the original project set up form, the form cannot be amended. A new TBRA project set up form would need to be completed for the additional tenants. For example, if a project is set up with a term of assistance lasting 12-months, January through December, additional tenants would not be able to be added if their term of assistance was February through January. This would involve a new TBRA project set up form for those additional tenants.

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PROJECT SET-UP REPORTS

4.   **QUESTION:** On the Project Set Up Form (HUD 40094), Part A, Box #5, what should be checked if a project involves both acquisition and new construction or both acquisition and rehabilitation?

  ANSWER: Check only one box. Do <u>not</u> check the "Acquisition Only" box <u>unless</u> the HOME Program funds are only being used for acquisition of the project or property. If the project includes both acquisition and construction, check "New Construction". If it includes acquisition and rehabilitation, check either "Moderate Rehabilitation" or "Substantial Rehabilitation," depending on the cost of rehabilitation per HOME-assisted unit.

  If one parcel of land has one or more buildings and the project includes one or more buildings being constructed and one or more existing buildings being rehabilitated, the two types of activities can be set up as one project -- either new construction or rehabilitation depending on which activity the larger amount of HOME funds is committed to.

5.   **QUESTION:** If tenant(s) drop out of a TBRA project after the funds have been drawn down, does the money have to be returned? Does the project set-up form have to be changed? What if the tenant(s) return?

  ANSWER: Yes, the money needs to be returned. This is due to the fact that HOME Program funds are disbursed once costs have been incurred or the work has been completed. If a tenant drops out, or moves out, then no assistance is needed, therefore, no costs have been incurred.

  The project set up form will need to be revised deleting the tenant or tenants that have dropped out. This is especially important if the project set up form only has one tenant listed on it. A revised project set up form should be sent to the Department in order to free up the funds reserved for this particular project and make the funds available to other projects.

If the tenant(s) returns, a new project set up form needs to be submitted with the new terms of assistance, new amount of assistance, and so on. A new project set up form is also necessary to reserve the amount of funds needed for the new term of assistance.

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QUESTIONS AND ANSWERS

PROJECT SET-UP REPORTS

6.   **QUESTION:** Where can we obtain the forms that are referred to in this chapter?

ANSWER: You may use copies of the forms found in the Appendix of this chapter or request any HOME forms (eg., HOME-3, HOME-4, HOME-5 and HOME-6) from your State HOME Program Representative. Please be sure you are using the most current versions of all forms. HUD forms can be ordered from HUD or found on their website at http://www.hudclips.org/cgi/index.cgi. HOME Forms can be found on HCD's website at http://www.hcd.ca.gov/ca/home/fiscalindex.html.

CHAPTER X

QUESTIONS AND ANSWERS

<u>DISBURSING FUNDS</u>

The following are commonly asked questions about disbursing funds. This information should make completing forms easier and help the process go more smoothly. Contact your State HOME Program Representative if you have any additional questions about disbursing funds.

1. **QUESTION:** If tenant(s) drop out of a TBRA project after the funds have been drawn down, does the money have to be returned? Does the project set-up form have to be changed? What if the tenant(s) return?

   ANSWER: Yes, the money needs to be returned. This is due to the fact that HOME Program funds are disbursed once costs have been incurred or the work has been completed. If a tenant drops out, or moves out, then no assistance is needed, therefore, no costs have been incurred.

   The project set up form will need to be revised deleting the tenant or tenants that have dropped out. This is especially important if the project set up form only has one tenant listed on it. A revised project set up form should be sent to the Department in order to free up the funds reserved for this particular project and make the funds available to other projects.

   If the tenant(s) returns, a new project set up form needs to be submitted with the new terms of assistance, new amount of assistance, and so on. A new project set up form is also necessary to reserve the amount of funds needed for the new term of assistance.

2. **QUESTION:** We submitted a drawdown request for additional funds on a specific project without a revised project set up form. We did not receive the additional funds at all or the additional funds were delayed for an excessive amount of time. Why?

   ANSWER: The Department is required to process a revised project set up form when additional HOME Program funds are being added to an established project. Until the revised project set up form is processed in IDIS, the Department cannot access the additional funds. Submittal of a revised project set up form in advance of or along with the drawdown request for the additional funds, takes care of this problem.

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3.   **QUESTION:** Where can we obtain the forms that are referred to in this chapter?

        ANSWER: You may use copies of the forms found in the Appendix of this chapter or request any HOME forms (eg., HOME-3, HOME-4, HOME-5 and HOME-6) from your State HOME Program Representative. Please be sure you are using the most current versions of all forms. HUD forms can be ordered from HUD or found on their website at http://www.hudclips.org/cgi/index.cgi. HOME Forms can be found on HCD's website at http://www.hcd.ca.gov/ca/home/fiscalindex.html.

CHAPTER X

QUESTIONS AND ANSWERS

PROJECT COMPLETION REPORT

1.   **QUESTION:** Is there a difference between closing a project and canceling a project?

ANSWER: Yes. Closing and canceling projects are two very different processes and confusing these terms may lead to problems with your HOME Program allocation. Closing a project means that the work on the project has been completed, a final drawdown has been requested and paid; and a project completion report has been completed, processed by the Department and IDIS.

A canceled project means that the project was terminated before the project was completed. Reasons include: First-time Homebuyer failing to get primary lender approval; an owner changing his/her mind regarding their rehabilitation project; an owner being determined to be income ineligible, etc. If funds have been disbursed, they will need to be repaid to the Department and subsequently be repaid to HUD. Once the returned funds have been received and processed in IDIS, the project(s) will be canceled in IDIS and the funds returned to the HOME allocation for use on additional projects.

2.   **QUESTION:** Where can we obtain the forms that are referred to in this chapter?

ANSWER: You may use copies of the forms found in the Appendix of this chapter or request any HOME forms (eg., HOME-3, HOME-4, HOME-5 and HOME-6) from your State HOME Program Representative. Please be sure you are using the most current versions of all forms. HUD forms can be ordered from HUD or found on their website at http://www.hudclips.org/cgi/index.cgi. HOME Forms can be found on HCD's website at http://www.hcd.ca.gov/ca/home/fiscalindex.html.